



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,656	06/20/2001	Sharon Durst	1578	4479

7590

11/04/2002

Mark C. Jacobs, Esq.
3033 El Camino Avenue
Sacramento, CA 95821

EXAMINER

RHEE, JANE J

ART UNIT

PAPER NUMBER

1772

7

DATE MAILED: 11/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-7

Advisory Action	Application No. 09/884,656	Applicant(s) DURST ET AL.	
	Examiner Jane J Rhee	Art Unit 1772	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 October 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: the proposed changes to claims 9,10,11,12,13.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 7,9,10,11,12,13.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed in Paper #6 have been fully considered but they are not persuasive.

In response to applicant's argument that Klein is not a valid reference, Klein was used to show that staggering is old in the ballistic art, regardless of material and orientation (col. 3 lines 46-49).

In response to applicant's argument that the levels of UL ballistic protection is not inherent in the layers disclosed by the applicant, the applicant's disclosed prior art teaches that its well known in the art that the use of increased thickness of fiberglass rated beyond Level 1 protection. Applicant also disclosed in his arguments that Levels 1,2,and 3 ballistic panels preexist. Placing the ballistic panels in any "sequential" order to obtain the desired ballistic protection would have been obvious to any one skilled in the ballistic art.

In response to applicant's argument that he was first to come up with the idea of staggering the panels in one direction to achieve and unanticipated result, Klein taught the concept of being able to stagger his panels so that the impact energy is transmitted throughout the panel system and is dissipated which tremendously reduces the impact transmitted to the panel which would otherwise occur (col. 3 lines 46-59).

In response to applicant's argument that Klein is a nonanalogous art since polycarbonate and aluminum is used in either of the layers and are not bullet resistant materials, Polycarbonate and aluminum are very high impact resistant

Art Unit: 1772

materials used to form Klein's bullet proof vest (col. 4 lines 35-39). The term "proof" is well defined as "fully or successfully resistant" by Microsoft word dictionary. Therefore, Klein is an analogous art that teaches staggering in ballistic panels.

In response to applicant's arguments that Klein teaches that his layers are glued together and that Klein teaches hinging of the layers, this argument is irrelevant since applicant never claimed that it cannot be glued together or hinged.

In response to applicant's argument that examiner fails to comprehend the huge economic impact of the discovery that certain pluralities of sheets in various combination of levels of protection can provide levels of protection significantly higher than what was believed obtainable prior to applicant's efforts, economical impact has little to no patentable weight.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 703-605-4959. The examiner can normally be reached on M-F.

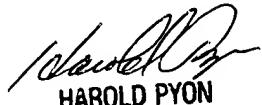
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Art Unit: 1772

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jane Rhee
October 31, 2002


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1/12

10/31/02